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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,089	05/25/2007	Yasuaki Fujita	Q96241	4020
23373	7590	10/25/2010	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			STORMER, RUSSELL D	
ART UNIT		PAPER NUMBER		3617
NOTIFICATION DATE		DELIVERY MODE		
10/25/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/588,089	<b>Applicant(s)</b> FUJITA, YASUAKI
	<b>Examiner</b> Russell D. Stormer	<b>Art Unit</b> 3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 16 August 2010.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-5,7-9 and 11 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 7 and 11 is/are allowed.

6) Claim(s) 1-5, 8, and 9 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/88/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Komatsu '955 in view of JP 03-19785.

Komatsu '955 (JP 2002-127955; previously cited by Applicant) discloses a coreless rubber crawler track assembly having a plurality of longitudinal cord rows 5; rubber projections 3 on the inner surface of the track; rubber lugs 4 on outer surface of the track; and a roller 10 which straddles the projections 3 and contacts the inner surface of the track. The roller 10 may be provided with areas of reduced diameter 15, 15a, 15b as shown in figures 1-3 which reduce the contact area of the outer peripheral surface of the roller where the roller contacts the track. The endless crawler track does not include stepped portions or upper and lower stage surfaces.

Japanese Published Utility Model Application 03-19785 (newly cited; hereafter JP 03-19785) teaches an endless crawler track assembly having projections 5 on its inner surface and a roller 6 which straddles the projections. The endless track further includes raised portions on its inner surface on either side of the projections. The raised portions (unlabelled, but clearly visible in figures 2, 3, 4, and 6) form an upper stage surface on which a reduced contact (6a in figure 4) of the roller rests. A portion 17 of the roller overlies a lower stage surface of the track, and a step is disposed between the

upper and lower stage surfaces. As shown in figure 4 approximately 50% of the outer periphery of the roller contacts the inner surface of the track.

From this teaching it would have been obvious to modify the endless track of Komatsu '955 to have a stepped portion separating the inner surface of the track into an upper stage surface and a lower stage surface such that the roller had a reduced contact area with the inner surface of the track, and the roller had a portion which would overlie the lower stage surface. This would perform the same function as in the Komatsu track by substituting a stepped track for a stepped roller, and would be useful in tracks which have a thickened central region. The lower stage surface would also make the outer sides of the track more flexible and thus better able to absorb deflection from rocks or tore obstacles.

#### ***Allowable Subject Matter***

Claims 7 and 11 are allowable over the art of record.

#### ***Response to Amendment***

The amendments to claims 3, 4, and 5 are effective to overcome the "alleged" objections and/or rejections set forth in the previous office action.

#### ***Response to Arguments***

Applicant's arguments filed August 16, 2010 have been fully considered but they are not persuasive.

Applicant argues that the JP '785 reference as having the "alleged" stepped portion on only the outer side of the roller, and that there would be no reason to modify this reference to include the lower stage surface at both sides of the roller. In response, it should be noted that the previous office action and the current rejection do not modify the JP '785 reference.

On pages 8 and 9 of the Response, Applicant argues the JP '785 reference as if it had been applied as anticipating the claims, instead of it being the modifying reference in an obvious-type rejection.

Applicant argues that the drawings of the JP '785 reference are not to scale and therefore cannot show the contact area as being approximately 50% as noted in the rejection. While it is clear that the drawings in a reference may not be used to define "precise proportions" as set forth in MPEP 2125, this section also states that the drawings "must be evaluated for what they reasonable disclose and suggest to one of ordinary skill in the art." Therefore, while figure 4 of JP '785 cannot be relied upon as teaching the exact dimensions of the contact area, figure 4 does reasonably suggest that the contact area could or should be approximately 50% of the length of the roller. And that approximately 50% of the roller will overhang the outer portion of the track.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell D. Stormer whose telephone number is (571) 272-6687. The examiner can normally be reached on Monday through Friday, 9 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Russell D. Stormer/  
Primary Examiner, Art Unit 3617